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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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12 SCOTT JOHNSON,

13 Plaintiff,

CIV S-04-0699 LKK PAN

14 v.

15 THE NORMAN and EDITH HILL
16 TRUST, PAIMAN RAHBARIAN,

ORDER

17 Defendants.
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19 On August 18, 2005, this court directed plaintiff to serve
20 his motion for default judgment upon remaining defendant Paiman
21 Rahbarian. Mr. Rahbarian appeared in this action by filing an
22 answer July 30, 2004, and status report August 25, 2004, and
23 default judgment may not be entered against him unless he is
24 served with plaintiff's motion.¹

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26 ¹ Fed. R. Civ. P. 55(b)(2) requires: "If the party against whom
judgment by default is sought has appeared in the action, the party (or,
if appearing by representative [as here], the party's representative)

1 On August 22, plaintiff filed proof of service upon Mr.
2 Rahbarian at what appears to be his residential address.
3 However, Mr. Rahbarian is represented by an attorney. Fed. R.
4 Civ. P. 5(b)(1) requires that service upon a party represented by
5 an attorney "is made on the attorney unless the court orders
6 service on the party."

7 Accordingly, plaintiff shall serve his motion for default
8 judgment and related documents upon the attorney for Mr.
9 Rahbarian, Mr. Mark Christopher Ellis, and file proof of such
10 service, on or before September 30, 2005. The September 21
11 hearing on this motion is vacated and rescheduled for Wednesday,
12 October 12, 2005, at 9 a.m., in Courtroom 25.

13 So ordered.

14 Dated: September 21, 2005.

15 /s/ Peter A. Nowinski
16 PETER A. NOWINSKI
17 Magistrate Judge
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26 shall be served with written notice of the application for judgment at
least 3 days prior to the hearing on such application."